

ORIGINAL

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
 WASHINGTON, D.C. 20554

In the Matter of )

Revision of Part 22 and Part 90  
 of the Commission's Rules to  
 Facilitate Future Development  
 of Paging Systems )

WT Docket No. 96-18

Implementation of Section 309(j)  
 of the Communications Act --  
 Competitive Bidding )

PP Docket No. 93-253

To: William F. Caton, Acting Secretary

**MEMORANDUM OF ORAL EXPARTE PRESENTATIONS**

Pursuant to Section 1.1206(a)(2) of the Commission's Rules, 47 C.F.R.

§ 1.1206(a)(2) (1995), this memorandum summarizes an oral ex parte presentations in the above-captioned docket, made to Sandra Danner, Deputy Chief, Commercial Wireless Division of the Wireless Telecommunications Bureau; Mika Savir of the Legal Branch of the Commercial Wireless Division of the Wireless Telecommunications Bureau; and Suzanne Toller, Legal Advisor to Commissioner Rachelle B. Chong, on October 30, 1996, on behalf of Teletouch Licenses, Inc. (Teletouch). The presentation was made by Robert McMurrey, Chairman of the Board and Chief Executive Officer of Teletouch Communications, Inc. and G. David Higginbotham, President and Chief Operating Officer of Teletouch Communications, Inc., and John A. Prendergast and Richard D. Rubino of the law firm of Blooston, Mordkofsky, Jackson & Dickens, Washington, D.C., counsel for Teletouch.

Teletouch is an established licensee in the Paging and Radiotelephone Service and the Business Radio Private Carrier Paging Service, with facilities located principally in Texas, Arkansas, Missouri Mississippi, Oklahoma and Tennessee. The presentation concerned the Commission's proposal to subject the Part 90 shared VHF and UHF paging frequencies (in

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particular 157.74 MHz and 152.48 MHz) to auctions and market area licensing, and the adverse consequences that could befall incumbent licensees by such action.

Teletouch's primary Part 90 paging frequency is 157.74 MHz, and includes coverage (either directly or through its affiliation with Preferred Network, Inc.) throughout a substantial portion of Oklahoma, eastern Texas, Louisiana, Arkansas, Southern Missouri, Tennessee, Mississippi, and Alabama, and portions of Georgia, North and South Carolina, as well as Virginia, Maryland and Delaware. In order to build this system, Teletouch has invested approximately \$200 million in infrastructure, and serves many rural areas.

Teletouch explained that if the Commission were to allow a market area licensee to overlay the incumbent licensees' systems in a particular market, that market area licensee would have every economic incentive to displace the incumbent licensees by e.g., placing airtime intensive voice pagers on the frequency, so that the incumbent carriers would not be able to provide timely paging services to their existing subscribers. These subscribers include police, fire, rescue, and medical personnel who rely on their pagers in the event of a life-safety emergency, resulting in a loss of this necessary service in the rural areas. Teletouch pointed out that unlike the Part 22 paging services, which are licensed on an exclusive rather than a shared basis, there are no protected contours in the Part 90 shared frequency bands. Thus, Teletouch explained that there is no way to protect incumbent licensees from a market area licensee who would have every incentive to exert its will over the incumbents, much like a frequency "slum lord." Teletouch also noted that perhaps the only way for the Commission to establish protection for incumbents would be to establish some form of exclusivity for incumbent licensees, so that auctions winners would be confined to territory that is not currently covered by an incumbents' authorization.


However, this approach is the lesser of two evils, and the best solution would be to refrain from auctioning these heavily licensed, shared frequencies.

Pursuant to Section 1.206(a)(2), this memorandum and one copy are being submitted to the Office of the Secretary, and copies are being delivered to Sandra Danner, Deputy Chief, Commercial Wireless Division of the Wireless Telecommunications Bureau; Mika Savir of the Legal Branch of the Commercial Wireless Division of the Wireless Telecommunications Bureau; and Suzanne Toller, Legal Advisor to Commissioner Rachelle B. Chong. It is requested that the Secretary place a copy of this memorandum in the captioned dockets.

Respectfully submitted,

**TELETOUCH LICENSES, INC.**

By

  
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